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ORIGINAL
FILED

JUL 30 2003

RICHARD W. WITTE
NORTHERN U.S. DISTRICT COURT

E-FILED

8
9 Attorneys for Defendant
10 GULF INSURANCE COMPANY

11 IN THE UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13
14 C. PRESTON BUTCHER, an individual;
15 LEGACY PARTNERS 2323 L.P., a California
16 limited partnership; LEGACY PARTNERS 387
17 L.P., a California limited partnership; and
18 LEGACY PARTNERS, INC., a California
corporation,

Case No.

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**GULF INSURANCE COMPANY'S
NOTICE AND PETITION FOR
REMOVAL OF ACTION TO U.S.
DISTRICT COURT**

Plaintiffs,

v.

GULF INSURANCE COMPANY, a Connecticut
corporation; WILLIS INSURANCES
SERVICES OF CALIFORNIA, INC., a
California corporation; and DOES 1-50,

Defendants.

NOTICE AND PETITION FOR REMOVAL

PLEASE TAKE NOTICE, that defendant Gulf Insurance Company ("Gulf")
hereby removes to this Court the action commenced in the Superior Court of California, San Mateo
County described below:

1. On March 19, 2003, an action was filed in the Superior Court of California,

1 San Mateo County, entitled C. Preston Butcher, et al. v. Gulf Insurance Company, et al., Case No.
 2 CIV 430035 (hereinafter, "San Mateo action.) A true and correct copy of the Summons and
 3 Complaint in the San Mateo action are annexed hereto as Exhibit "A" and are incorporated herein.
 4 A copy of Gulf's answer to the complaint is annexed hereto as Exhibit "B". The foregoing
 5 documents constitute all the pleadings in the case to date.

6 2. Also named as a defendant in the action was Willis Insurance Services of
 7 California, Inc. ("Willis"), a California corporation. Based upon the inclusion of Willis as a
 8 defendant, jurisdiction pursuant to 28 U.S.C. § 1332 did not exist.

9 3. On July 22, 2003, plaintiffs advised Gulf that they were filing a dismissal of
 10 the San Mateo action with respect to Willis. A copy of the Request for Dismissal is annexed hereto
 11 as Exhibit "C". That Request for Dismissal was the first paper from which it could be ascertained
 12 that the action had become removable.

13 4. This action is a civil action over which this Court now has original
 14 jurisdiction pursuant to 28 U.S.C. § 1332 and is one which may be removed to this court by Gulf
 15 pursuant to the provisions of 28 U.S.C. § 1441(b). The amount in controversy exceeds \$75,000 and
 16 there is complete diversity of citizenship between plaintiffs and Gulf.

17 5. Upon information and belief, plaintiff C. Preston Butcher is a citizen and
 18 resident of California. Upon information and belief, plaintiffs Legacy Partners 2323 L.P. and
 19 Legacy Partners 387 L.P. are California limited partnerships having a principal place of business in
 20 Foster City, California. Upon information and belief, plaintiff Legacy Partners, Inc. is a corporation
 21 organized and existing under the laws of the State of California with a principal place of business in
 22 Foster City, California.

23 6. Gulf is a corporation organized and existing under the laws of the State of
 24 Connecticut with a principal place of business in New York.

25 7. Plaintiffs allege breach of an insurance contract and bad faith by Gulf in
 26 connection with certain claims made against plaintiffs for which they sought coverage under
 27 policies of insurance issued by Gulf. Plaintiffs seek to recover in excess of \$3,000,000 which they
 28 allegedly incurred in connection with those underlying claims, as well as additional amounts. The

1 amount in controversy therefore exceeds \$75,000 exclusive of interest and costs.

2 8. A copy of this Notice and Petition for Removal shall be filed
3 contemporaneously in the Superior Court of California, San Mateo County.

4 | Dated: July 30, 2003

ROPER, MAJESKI, KOHN & BENTLEY, P.C.

By Enrique Martinez
ENRIQUE MARINEZ
ANDREW L. MARGULIS
Attorneys for Defendant
GULF INSURANCE COMPANY

1 CASE NAME: C. PRESTON BUTCHER, et al. v. GULF INSURANCE COMPANY, et al.
 2 ACTION NO.: CIV 480035

3
 4 **PROOF OF SERVICE**

5 I am a citizen of the United States. My business address is 1001 Marshall Street, Redwood
 6 City, California 94063. I am employed in the county of San Mateo where this service occurs. I am
 over the age of 18 years, and not a party to the within cause. I am readily familiar with my
 employer's normal business practice for collection and processing of correspondence for mailing
 with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S.
 Postal Service the same day as the day of collection in the ordinary course of business.

7 On the date set forth below, following ordinary business practice, I served a true copy of the
 8 foregoing document(s) described as:

9
 10 **GULF INSURANCE COMPANY'S NOTICE AND PETITION FOR REMOVAL
 11 OF ACTION TO U.S. DISTRICT COURT**

12 (BY FAX) by transmitting via facsimile the document(s) listed above to the fax
 13 number(s) set forth below, or as stated on the attached service list, on this date
 before 5:00 p.m.

14 (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be
 placed in the United States mail at Redwood City, California.

15 (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand
 this date to the offices of the addressee(s).

16 (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an
 overnight delivery carrier with delivery fees provided for, addressed to the
 person(s) on whom it is to be served.

17 Jonathan C.S. Cox
 COX PADMORE SKOLNIK & SHAKARCHY
 18 750 Menlo Avenue, Suite 300
 Menlo Park, CA 94025-4735
 Tel: (650) 424-0600
 Fax: (650) 493-9408

Philip Borowsky, P.C.
 Christopher J. Hayes
 Debra L. Bishop
 BOROWSKY & HAYES
 One Market Plaza, Steuart Tower
 Suite 1275
 San Francisco, CA 94105-1431
 Tel: (415) 896-6800
 Fax: (415) 896-0600

22 (State) I declare under penalty of perjury under the laws of the State of California
 23 that the above is true and correct.

24 Executed on July 30, 2003, at Redwood City, California.

25
 26 
 27
 28 Tanya Cruzada

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

C. PRESTON BUTCHER, et al.,)
)
)
Plaintiff(s),)
)
)
vs.) Case No. C03-03553
)
)
GULF INSURANCE COMPANY,)
et al.)
)
Defendant(s))

NOTICE REGARDING EXHIBIT ATTACHMENT

Exhibits A, B, and C, which are attachments to Gulf Insurance Company's Notice and Petition for Removal of Action to U.S. District Court is in paper form only and is being maintained in the case file in the Clerk's office.

Reason for manual filing:

Number of pages exceed page limit for attachments.



Enrique Martinez
Attorney for Defendant Gulf Ins. Co.
Ropers, Majeski, Kohn & Bentley
1001 Marshall Street
Redwood City, CA 94063

Date: 7-31-03